

Zoning Text Amendment No.: 14-03
Concerning: Overlay Zone -
 Clarksburg
Draft No. & Date: 1 – 4/3/14
Introduced: April 8, 2014
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President at the request of the District Council

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- Creating an overlay zone for Clarksburg East; and
- Creating an overlay zone for Clarksburg West.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-18. “OVERLAY ZONES.”

By adding new sections:

Section 59-C-18.25. “Clarksburg East Environmental Overlay Zone.”
Section 59-C-18.26. “Clarksburg West Environmental Overlay Zone.”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-C-18 is amended as follows:**

2
3 **DIVISION 59-C-18. OVERLAY ZONES.**

4 * * *

5 **Sec. 59-C-18.25. Clarksburg East Environmental Overlay Zone.**

6 **59-C-18.251. Purpose.**

7 The purpose of the Clarksburg East Environmental Overlay Zone is to:

8 (a) protect the water quantity, water quality, habitat, and biological diversity
9 of the Ten Mile Creek watershed and its tributaries;

10 (b) regulate the amount and location of impervious surfaces to maintain
11 levels of groundwater, control erosion and water temperature, and retain
12 as many of the functions provided by natural land as possible;

13 (c) regulate development that could adversely affect this high quality stream
14 system; and

15 (d) implement the recommendations of the 2014 Ten Mile Creek Area
16 Limited Amendment to the Clarksburg Master Plan and Hyattstown
17 Special Study Area.

18 **59-C-18.252. Procedure for approval.**

19 (a) A site plan must be approved by the Planning Board under the
20 provisions of Division 59-D-3 for any development that must file a
21 preliminary plan of subdivision under Chapter 50, unless excluded under
22 Subsection (b).

23 (b) A lot or parcel for a one-family dwelling that has not changed in size or
24 shape since January 1, 2014 is excluded from the site plan approval
25 requirement.

59-C-18.253. Regulations.

(a) Land Use.

All permitted and special exception uses allowed in the underlying zones are allowed in the Clarksburg East Environmental Overlay Zone.

(b) Development standards.

(1) The development standards of the underlying zone apply, except as modified by this overlay zone.

(2) Except for development under Section 59-C-18.254, the total impervious surface area for any development after {EFFECTIVE DATE} may be a maximum of 15% of the total area in the application for development.

(3) All environmental buffer areas or natural resources recommended for protection in the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area must be treated as environmentally sensitive areas, in addition to other areas identified as environmentally sensitive in law, regulations, or in the Planning Board's Guidelines for the Environmental Management of Development, as amended.

(4) All environmentally sensitive areas must be included in the required open space area.

(5) The minimum area devoted to open space is 80% of the total area under application for development.

(6) If the underlying zone is R-90:

(A) the maximum density without MPDU bonus density is 3.0 dwelling units per acre;

(B) the maximum density with MPDU bonus density is 3.66 dwelling units per acre;

- (C) a development may include any type of dwelling unit, up to the maximum number of dwelling units;
- (D) the maximum building height is:
 - (i) 35 feet for a one-family detached dwelling;
 - (ii) 50 feet for a one-family attached dwelling; and
 - (iii) 65 feet for a multiple-family dwelling or any non-residential building; and
- (E) when site plan approval is required, the minimum lot area, lot dimensions, and building setbacks of the R-90 zone do not apply. Any such requirements must be determined by the Planning Board during site plan approval process.

59-C-18.254. Exemptions from impervious surface area restrictions.

- (a) Any impervious surface lawfully existing under a building permit or sediment control permit issued before {EFFECTIVE DATE} that exceeds the applicable impervious surface restriction may continue or be reconstructed with the same or less impervious surface area under the development standards in effect when the building permit or sediment control permit was issued.
- (b) Any impervious surface not approved as part of a site plan under Section 59-D-3 resulting from an addition to an existing one-family residential dwelling or an accessory structure to a one-family dwelling is exempt from this overlay zone's impervious surface restriction.
- (c) Impervious surfaces associated with development on any lot or parcel with an area less than 2.0 acres as of January 1, 2014 are exempt from this overlay zone's impervious surface restriction.

- (d) Impervious surface for any publicly funded road, bikeway, path, driveway, or parking area is exempt from this overlay zone's impervious surface restriction.

Sec. 59-C-18.26. Clarksburg West Environmental Overlay Zone.

59-C-18.261. Purpose.

The purpose of the Clarksburg West Environmental Overlay Zone is to:

- (a) protect the water quantity, water quality, habitat, and biological diversity of the Ten Mile Creek watershed and its tributaries;
- (b) regulate the amount and location of impervious surfaces to maintain levels of groundwater, control erosion and water temperature, and retain as many of the functions provided by natural land as possible;
- (c) regulate development that could adversely affect this high quality stream system; and
- (d) implement the recommendations of the 2014 Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area.

59-C-18.262. Procedure for approval.

- (a) A site plan must be approved by the Planning Board under the provisions of Division 59-D-3 for any development that must file a preliminary plan of subdivision under Chapter 50, unless excluded under Subsection (b).
- (b) A lot or parcel for a one-family dwelling that has not changed in size or shape since January 1, 2014 is excluded from the site plan approval requirement.

59-C-18.263. Regulations.

(a) Land Use.

All permitted and special exception uses allowed in the underlying zones are allowed in the Clarksburg West Environmental Cluster Zone.

(b) Development standards.

(1) The development standards of the underlying zone apply, except as modified by this overlay zone.

(2) Except for County owned land or land under a conservation easement granted to the benefit of the County and development exempted under Section 59-C-18.264, the total impervious surface area for any development after {EFFECTIVE DATE} may be a maximum of 6% of the total area in the application for development.

(3) County owned land or land under a conservation easement granted to the benefit of the County may not add any impervious surface.

(4) Any number of lots may be of any size, without regard to varying lot size requirements in the underlying zone.

(5) The minimum lot area, lot dimensions, and building setbacks must be determined by the Planning Board during the site plan approval process.

(6) All environmental buffer areas or natural resources recommended for protection in the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area must be treated as environmentally sensitive areas, in addition to other areas identified as environmentally sensitive in law, regulations, or in the Planning Board's Guidelines for the Environmental Management of Development, as amended.

(7) All environmentally sensitive areas must be included in the required open space area.

(8) The minimum area devoted to open space is 80% of the total area under application for development.

59-C-18.262. Exemptions from impervious surface restrictions.

(a) Any impervious surface lawfully existing under a building permit or sediment control permit issued before {EFFECTIVE DATE} that exceeds the applicable impervious surface restriction may continue or be reconstructed with the same or less impervious surface area under the development standards in effect when the building permit or sediment control permit was issued.

(b) Any impervious surface not approved as part of a site plan under Section 59-D-3 resulting from an addition to an existing one-family residential dwelling or an accessory structure to a one-family dwelling is exempt from this overlay zone's impervious surface restriction.

(c) Impervious surfaces associated with development on any lot or parcel with an area less than 2.0 acres as of January 1, 2014 are exempt from this overlay zone's impervious surface restriction.

(d) Impervious surface for any publicly funded road, bikeway, path, driveway, or parking area is exempt from this overlay zone's impervious surface restriction.

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council